

REMARKS

Entry of the foregoing and reconsideration of the subject application are respectfully requested in light of the comments which follow.

Claims 1-9 were pending in this application. Claims 3, 6 and 9 have been withdrawn from consideration in the Restriction Requirement dated March 3, 2008. In this response, no claims are amended, canceled, or added. Thus, claims 1-9 remain pending.

REJECTIONS UNDER 35 U.S.C. § 102

Claims 1-2, 4, 5 and 7-8 are rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 5,174,185 to Aichele (hereafter "*Aichele*") for the reasons presented at page 3 of the Official Action.

Applicants traverse the rejection. To establish a *prima facie* case of anticipation, a single prior art reference must teach each and every element of the claimed invention, either explicitly or inherently. *Verdegaal Bros. v. Union Oil Co. Cal.*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). In the rejection outlined in the Official Action, at least one element of the claims are not expressly or inherently described in the cited reference. Accordingly, the rejection is improper and should be withdrawn.

Aichele at least fails to disclose "load receiving members disposed axially between said at least one anvil portion and respective load transmitting portions, each load receiving member being connected by a bearing to the axle, wherein the axle is rotatable relative to the load receiving members" (emphasis added). *Aichele* discloses a rotary cutting unit system, wherein a load applying mechanism is configured to contain bearings used to connect to an anvil and apply an upward force directly on the anvil portion. In contrast, the claims recite a rotary cutting unit

system, wherein the anvil comprises a load receiving member that receives the upward force from the load applying mechanism and is connected to the axle by a bearing.

The Office alleges that the pressure roller link bars (17, 18) of *Aichele* are load receiving members. However, the pressure roller link bars (17,18) are describing a load applying mechanism as opposed to the load receiving member. The claimed load receiving members (24) are part of the anvil along with the anvil portion (20) and load transmitting portions (22). This distinction is at least made clear in claim 1, by claiming that the rotatable anvil comprises the load receiving members, and in claim 4, by also claiming that the cutting unit further comprises a load applying mechanism. The pressure roller link bars (17,18) of *Aichele* are physically separate from the anvil, and act to apply a variable upward force to the anvil in the same manner as the load applying mechanism of claim 4. The pressure roller link bars are not the portion of the anvil that is receiving the upward force. Therefore, the pressure roller link bars (17,18) are not load receiving members of the anvil as claimed.

Further, even if the pressure roller link bars (17,18) of *Aichele* were properly considered load receiving members of the anvil, the link bars (17,18) are not disposed axially between at least one anvil portion and respective load transmitting portions. The Office misconstrues the term “axially between.” To be “axially between,” an element must be positioned with the other elements on either side of the first element along the same axis. *Aichele*, in contrast, discloses load transmitting portions and at least one anvil portion along the same axis, and the link bars (17,18) are below the anvil portion and not along the same axis. Therefore, even if the link bars (17,18) of *Aichele* were load receiving members, they are not axially between an anvil portion and load transmitting portions as claimed.

In *Aichele*, the portion of the anvil that is actually acting as a load receiving member is the counter plate (14) of the anvil portion. *See, e.g.*, col. 2, ll. 27-29. The counter plate rotates together with the rollers and axle and is not connected to the axle by a bearing. *See, e.g.*, col. 2, ll. 8-11. Therefore, the axle of *Aichele* is not rotatable relative to the counter plate, which is the load receiving member of the anvil. Thus, the counter plate (14) of *Aichele* at least fails to be a load receiving member that is “connected by a bearing to the axle” or “rotatable relative to the load receiving members.”

At most, *Aichele* discloses some of the claimed elements of the load receiving member. However, *Aichele* fails to disclose each and every element of claims 1 and 4. Dependent claims 2, 5, and 7-8, which depend from claims 1 and 4, respectively, are also not anticipated for at least the same reasons as for claims 1 and 4. Therefore, for at least the above reasons, no *prima facie* case of anticipation has been adduced, and the rejection should be withdrawn.

Further, it would not be obvious to modify *Aichele* to arrive at the claimed invention. *Aichele* and the claimed invention disclose different rotary cutting systems. *Aichele* teaches applying upward force directly to the counter cutting plate. There is no reason in the prior art to modify *Aichele* to apply the upward force in a different portion of the anvil. *Aichele* specifically desires the pressure roller link bars contain bearings to apply the upward force directly against the counter plate to ensure that “the distance between the rollers can be permanently readjusted taking into consideration the wear in the cutting edge during the cutting process while maintaining maximum precision and achieving longer tool lives for its rollers.” *See, e.g.*, col. 1, ll. 26-32. Only through a hindsight analysis of Applicants’ invention, would one of ordinary skill in the art recognize that a similar result could be achieved through the particular system

claimed. Therefore, absent an articulated independent rationale to modify, it would be improper to consider the claims obvious over the anvil and rotary cutting unit of *Aichele*.

RESTRICTION REQUIREMENT

Applicants acknowledge that the Examiner has made the restriction requirement final. However, applicants request, in light of the allowability of generic claims 1 and 4, that claims 3 and 6, withdrawn based on a species election, be considered on the merits, and claim 9 be rejoined. Claims 3, 6, and 9 disclose all of the limitations of claims 1 and 4.

CONCLUSION

From the foregoing, further and favorable action in the form of a Notice of Allowance is earnestly solicited. Should the Examiner feel that any issues remain, it is requested that the undersigned be contacted so that any such issues may be adequately addressed and prosecution of the instant application expedited.

Respectfully submitted,

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